Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at http://about.jstor.org/participate-jstor/individuals/early-journal-content.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

educational and humanitarian, were in no sense park purposes. The injunction was granted. *Williams* v. *Gallatin* (1920) 229 N. Y. 248, 128 N. E. 121.

The instant case reverses the decision of the Appellate Division of the Supreme Court, *Williams* v. *Gallatin* (1920) 191 App. Div. 171, 181 N. Y. Supp. 91. It adopts the view recognized to be sound in a discussion in (1920) 20 Columbia Law Rev. 687, 691, criticizing the conclusion reached by the lower court.

NATURALIZATION—CANCELLATION OF NATURALIZATION CERTIFICATE—FRAUD.—The United States sued the defendant, a native of Germany, under (1906) 34 Stat. 596, 601, U. S. Comp. Stat. (1916) § 4374 to cancel a certificate of naturalization granted in 1904. The government adduced evidence of the defendant's disloyal attitude during the war with Germany, and contended therefrom that his renunciation of foreign allegiance at the time of his naturalization was attended with a mental reservation and constituted a fraud upon the United States. The defendant entered a denial of fraud. From a decree cancelling his certificate of naturalization, the defendant appealed. *Held,* the decree will be affirmed. *Schurmann* v. *United States* (C. C. A. 1920) 264 Fed. 917.

The Act of 1906 clearly applies to the instant case. *United States* v. *Wusterbarth* (D. C. 1918) 249 Fed. 908; *United States* v. *Darmer* (D. C. 1918) 249 Fed. 989; *United States* v. *Kramer* (C. C. A. 1919) 262 Fed. 395. The act derives its validity from Art. I, sec. 8 § 4 of the Constitution. *Johannessen* v. *United States* (1911) 225 U. S. 227, 32 Sup. Ct. 613; *United States* v. *Ginsburg* (1916) 243 U. S. 472, 37 Sup. Ct. 422. The application of the act to certificates of naturalization granted prior to its enactment is not invalid as an *ex post facto* law since its operation is not punitive. *Johannessen* v. *United States, supra.* Nor does the principle of *res judicata* preclude the government from re-opening the matter by direct attack, since the naturalization proceeding was *ex parte. Johannessen* v. *United States, supra; United States* v. *Spohrer* (C. C. 1910) 175 Fed. 440; Moore, 4 Digest International Law (1906) § 422; but *cf. United States* v. *Gleason* (C. C. A. 1898) 90 Fed. 778. A decree of naturalization is in the nature of a grant and may therefore be annulled for fraud. *Johannessen* v. *United States, supra; Luria* v. *United States* (1913) 231 U. S. 9, 34 Sup. Ct. 10. The offer of proof of disloyal utterances of the defendant, thirteen years after his naturalization, should have been refused as altogether too speculative and remote in its relevancy to the defendant's state of mind at that time. Under certain circumstances, subsequent conduct may be shown as probative of one's state of mind at a prior date. Wigmore, Evidence (1904) § 395; *Thayer* v. *Thayer* (1869) 101 Mass. 111. However such conduct must be reasonably proximate to the act in point of time and connection to have any weight as evidence. *State* v. *Kelly* (1904) 77 Conn. 266, 58 Atl. 705; see *Thayer* v. *Thayer, supra.* In the analogous action to set aside a patent for fraud, the government must furnish clear, unequivocal and convincing proof. *United States* v. *Bell Tel. Co.* (1897) 167 U. S. 224, 251, 17 Sup. Ct. 809. In the instant case, the proof offered had no such logical and probative force as to make out even a *prima facie* case.

PLEADING AND PRACTICE—INCONSISTENT CAUSES OF ACTION IN SAME COMPLAINT—CONTRACT AND TORT.—The plaintiff, induced by the false representation of the defendant that he had an export license, chartered

him a ship which the plaintiff in turn chartered from C. The contract stipulated as liquidated damages $1,250 per day for every day's delay caused by the defendant. The ship was delayed two days because the defendant had no export license, causing the plaintiff to become indebted to the extent of $1,877. The plaintiff states causes of action in deceit and in contract. *Held,* on demurrer, two judges dissenting, that the causes of action are consistent. *France & Can. S. S. Corp.* v. *Berwind-White C. M. Co.* (N. Y. 1920) 127 N. E. 893 reversing (1920) 191 App. Div. 105, 180 N. Y. Supp. 709.

The court adopted the sound view that the actions of deceit and contract are entirely consistent because deceit does not depend on the rescission of the contract. For a fuller discussion of the principal case see (1920) 20 Columbia Law Rev. 712.

PROPERTY EXECUTION—EXAMINATION OF JUDGMENT DEBTOR AS TO UNPATENTED INVENTION.—A judgment debtor was found to have a secret unpatented invention. *Held,* that in proceedings supplementary to execution, he cannot be examined thereon under Section 2435 of the Code of Civil Procedure, providing that a judgment debtor may be examined as to his property. *Rosenthal* v. *Goldstein* (Sup. Ct. Special Term, 1920) 183 N. Y. Supp. 582.

At common law, an inventor had no exclusive right in his secret invention. See *Brown* v. *Duchesne* (1856) 60 U. S. 183, 195. A monopoly in the use thereof can be acquired only through a patent, and this may be said to create the property in the invention. *Marsh* v. *Nichols, Shepard & Co.* (1888) 128 U. S. 605, 9 Sup. Ct. 168. An inventor may undoubtedly use or sell his unpatented idea, *Ullman* v. *Thompson* (1914) 57 Ind. App. 126, 106 N. E. 611, and he will be protected against one who in violation of contract or in breach of confidence undertakes to apply it to his own use, or to disclose it to a third person. (1919) 19 Columbia Law Rev. 233; *Peabody* v. *Norfolk* (1868) 98 Mass. 452. For these reasons, such secret has often been judicially referred to as property. *Jones* v. *Reynolds* (1890) 120 N. Y. 213, 24 N. E. 279. But anyone lawfully gaining knowledge of an unpatented device may use it as he sees fit. *Hamilton Mfg. Co.* v. *Tubbs Mfg. Co.* (C. C. 1908) 216 Fed. 401. Therefore the inventor without patent lacks those rights of exclusive use which are requisite to property in its strict legal sense. *Marsh* v. *Nichols, Shepard & Co., supra.* And for jurisdictional purposes an unpatented invention is not property having an actual monetary value. *Durham* v. *Seymore* (1896) 161 U. S. 235, 16 Sup. Ct. 452. It is not property in the sense that it can be reached by creditors, nor does a trustee in bankruptcy take any interest therein. See *Gillett* v. *Bate* (1881) 86 N. Y. 87, 94; Moore, Fraudulent Conveyances & Creditors' Remedies (1908) 118, 1182. Property, being an ambiguous term, must be interpreted with regard to its context. In the Code section involved in instant case it is well to confine the use of the term to that complete aggregate of rights, powers, privileges and immunities which represents property in its strictest legal significance. Otherwise creditors would take up the time of the courts with absurd contentions as to what constituted assets of a debtor.

PUBLIC SERVICE CORPORATIONS—DISCRIMINATION—ARBITRARY REFUSAL OF CREDIT.—The relator extended credit to its other patrons but refused it to the Postal Telegraph Cable Company. The Public Service Com-